IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 779 of 2006

1. Rasheed S/o Makhdum Baksh
2. Furkan S/o Rasheed
3. Irfan S/o Rasheed
4. Asgar S/o Vajira
5. Mohabbat S/o Asgar
6. Hamid S/o Bundu
   All R/o Village Khatka,
   Police Station –Kotwali Roorkee,
   District Haridwar.

…… Applicants

Versus

1. State of Uttaranchal
2. Nafees S/o Tahir
   R/o Village Khatka,
   Police Station –Kotwali Roorkee,
   District Haridwar.

…… Respondents

Mr. Rajendra Singh, Advocate for the petitioner.
Mr. Amit Bhatt, A.G.A. for the respondent State.

Hon'ble Prafulla C. Pant, J.

Heard Mr. Rajendra Singh, learned counsel for the applicant / petitioner, Mr. Amit Bhatt, learned A.G.A. for the respondent State and Mr. D. Barthwal, learned counsel for respondent No. 2 (accused).

2) By means of this petition, moved under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred as Cr.P.C.), the petitioners (accused) in Sessions Trial No. 215 of 2002, have challenged the order dated 14.09.2006, passed by learned Sessions Judge, Haridwar, whereby he has ordered to transfer the sessions trial No. 215 of 2002; State Vs. Furkan and others, relating to

offences punishable under Section 147, 148, 149, 323, 325, 506, 307 of I.P.C., Police Station Kotwali Roorkee from the court of II Fast Track Court / Additional Sessions Judge, Haridwar, to his court.

3) It appears that a transfer application No. 56 of 2006 (certified copy of which is Annexure -1 to this petition) was moved before the Sessions Judge, Haridwar, for transferring aforesaid sessions trial No. 215 of 2002 from the court of II Fast Track Court / Additional Sessions Judge, Haridwar, to the court of Sessions Judge, Haridwar, on the ground that respondent No. 2 Nafees, who was an accused in sessions trial No. 214 of 2002, is unable to get the job because of the delay in disposal of the sessions trial. Said Nafees (present respondent No. 2) is neither accused in the sessions trial No. 215 of 2002, nor is he informant. The ground mentioned in the transfer application (Annexure -1 to this petition) requesting for transfer is that the court of II Fast Tract Court / Additional Sessions Judge, Haridwar, is over burdened with the cases, and respondent No. 2 Nafees wants to get decided his case at an early date, as he is unable to get the job due to the pendency of the sessions trial. From the perusal of the order sheet of the sessions trial No. 214 of 2002 (which is Annexure – 1 to the C- 482 petition No. 771 of 2003; Rasheed Vs. State and another), it is clear that the sessions trial No. 214 of 2002, was pending at the stage of 313 of Cr.P.C., and for several dates it was the accused, who were getting the case adjourned by seeking exemption through counsel.

4) In the above circumstances, the impugned order dated 14.09.2006, passed by the learned Sessions Judge, Haridwar, transferring the sessions trail No. 215 of 2002,

from the court of Additional Sessions Judge, to his court, is hereby, set aside.

5) The petition under Section 482 of Cr.P.C., stands disposed of, summarily.

(Prafulla C. Pant, J.)

Dt. 28th September, 2006.
H.Negi